

Senate Bill No. 1047

Passed the Senate September 5, 2007

Secretary of the Senate

Passed the Assembly September 4, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 6501, 6520, 6530, 6533, 6534, 6536, 6561, 6712, 6738, 6770, 6770.6, 6775.1, 6799, 7058, 7071.6, 7071.9, 8505.2, 8505.3, 8505.4, 8506.1, 8507, 8509, 8510, 8512, 8525, 8551.5, 8565.5, 8591, 8592, 8610, 8611, 8612, 8617, 8776, 8776.7, 8780.1, 8805, 9812.5, 9830.5, 9831, 9832.5, 9841, 9847.5, 9848, 9849, 9851, 9853, 9855.7, 9855.8, 9855.9, 9860, 9862.5, 9863, 9873, 19008.1, 19129, 19132, and 19170.5 of, to add Sections 101.7 and 9884.20 to, to repeal Section 8505.15 of, and to repeal and add Section 8712 of, the Business and Professions Code, and to amend Section 60.1 of the Probate Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1047, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law establishes the Department of Consumer Affairs which is comprised of various boards and similar entities with responsibilities for the licensure and regulation of various licensed professions and vocations. Under existing law, the department is under the control of the Director of Consumer Affairs.

This bill would require each of those boards to meet at least 3 times each calendar year and at least once each calendar year in northern California and in southern California. The bill would authorize the director to exempt any board from the meeting requirement upon a showing of good cause and to call a special meeting of the board when a board is not fulfilling its duties.

(2) Existing law, the Professional Fiduciaries Act, provides for the licensure and regulation of professional fiduciaries by the Professional Fiduciaries Bureau.

Existing law provides that, on and after July 1, 2008, no person shall act or hold himself or herself out to the public as a professional fiduciary unless that person has satisfied the licensure requirements.

This bill would instead make that provision applicable on and after January 1, 2009.

Existing law requires a person to meet specified requirements for licensure as a professional fiduciary, including the possession of either a baccalaureate degree of arts or sciences, an associate of arts or science degree and at least 5 years experience with substantive fiduciary responsibilities, as specified, or experience of not less than 3 years with substantive fiduciary responsibilities, as specified.

This bill would instead require possession of either a baccalaureate degree of arts or sciences, an associate of arts or sciences degree and at least 3 years experience working as a professional fiduciary or working with substantive fiduciary responsibilities, as specified, or experience of not less than 5 years, prior to July 1, 2012, working as a professional fiduciary or working with substantive fiduciary responsibilities, as specified.

Existing law requires the bureau to maintain certain information in each licensee's file, including whether the licensee has ever been removed for cause or resigned as a conservator, guardian, trustee, or personal representative as well as various other details relating to that removal or resignation, and it also requires licensees to annually file with the bureau a statement, under penalty of perjury, containing that information.

This bill would instead require licensees to file and the bureau to maintain information regarding whether the licensee has ever been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or the has demonstrated a pattern of negligent conduct, as specified.

Existing law specifies that a professional fiduciary, among other things, does not include any person whose sole activity as a professional fiduciary is as a broker-dealer, broker-dealer agent, or investment adviser representative.

This bill would specify that a professional fiduciary also does not include any person whose sole activity as a professional fiduciary is as an investment adviser.

(3) Existing law, the Professional Engineers Act and the Professional Land Surveyors' Act, provides for the licensure and regulation of professional engineers and land surveyors by the Board for Professional Engineers and Land Surveyors, in the Department of Consumer Affairs.

Existing law requires a licensee to report to the board a felony conviction and a civil judgment, settlement, arbitration award, or administrative action award of \$50,000 or more, occurring on or after July 1, 2006, if funds are appropriated for that purpose in the 2006–07 Budget Act and sufficient hiring authority is granted to the board for that purpose.

This bill would instead require a licensee to report to the board those matters occurring on or after January 1, 2008, if funds are appropriated for that purpose in the 2007–08 Budget Act and sufficient hiring authority is granted to the board for that purpose.

Existing law authorizes the board to receive and investigate complaints against engineers-in-training and land surveyors-in-training and, by a majority vote, to revoke his or her certificate for, among other things, conviction of a crime or violating the act.

This bill would additionally authorize the board, by a majority vote, to revoke the certificate of any engineer-in-training or land surveyor-in-training for committing any act constituting grounds for denial of a license.

Existing law requires the executive officer of the board to prepare a specified roster with the names and addresses of all licensed land surveyors and delinquent licenses, to be filed with the Secretary of State.

This bill would instead require the board or an entity designated by the board to compile and maintain a register of all licensed land surveyors that includes specified information for each licensee.

The bill would also make nonsubstantive, technical changes.

(4) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board.

The bill would make nonsubstantive, technical changes to provisions of that law.

(5) Existing law provides for the licensure and regulation of structural pest control operators by the Structural Pest Control Board. Existing law provides that a violation of those provisions is a crime.

Existing law authorizes fumigation to be performed only under the direct and personal supervision of an operator or field representative in a branch of pest control that includes fumigation or who is the qualifying manager of a registered company.

This bill would instead authorize fumigation to be performed only under the direct and personal supervision of an operator or field representative in a branch of pest control that includes fumigation and would modify the definition of “direct and personal supervision” for that purpose.

Existing law requires a registered company, as defined, to make specified masks available for a fumigating crew for protection against fumigants.

This bill would repeal that provision.

Existing law provides that a structural pest control field representative is licensed by the board to secure structural pest control work, identify infestations or infections, make inspections, submit bids for or otherwise contract, in behalf of a registered company.

This bill would specify that a structural pest control field representative is also licensed by the board to apply pesticides on behalf of a registered company.

Existing law requires the board to consult with the Director of Food and Agriculture when developing or adopting regulations that may affect the Department of Food and Agriculture.

This bill would instead require the board to consult with the Department of Pesticide Regulation in that regard.

Existing law requires applicants for a Branch 1, 2, or 3 operator’s license to demonstrate to the board that he or she has passed board-approved courses in certain areas and requires the board to develop correspondence courses with educational institutions to fulfill this requirement.

This bill would delete the provision requiring the board to develop those correspondence courses.

Existing law requires companies engaging in the practice of structural pest control to be registered with the board and to designate an individual with an operator’s license to act as its qualifying manager.

This bill would prohibit an individual with an operator’s license from acting as a qualifying manager for more than 2 registered companies, as specified.

Existing law requires the licenses of operators to be prominently displayed in the registered company’s office.

This bill would instead require the licenses of qualifying managers to be prominently displayed in the registered company’s

office. The bill would also require the branch supervisor's license to be prominently displayed in a branch office.

The bill would make nonsubstantive, conforming, and technical changes to provisions of that law.

Because the bill would impose new requirements under the law dealing with structural pest control operators, a violation of which would be a crime, the bill would impose a state-mandated local program.

(6) The Electronic and Appliance Repair Dealer Registration Law provides for registration and regulation of service dealers and service contractors by the Bureau of Electronic and Appliance Repair in the Department of Consumer Affairs.

Existing law regulating service contractors will be repealed on January 1, 2008. Existing law requires persons acting as service contractors to be registered, and provides for various criminal penalties for a violation of these provisions.

This bill would extend the operation of these provisions until January 1, 2013. Because these criminal penalties would be extended, the bill would impose a state-mandated local program by expanding the scope of a crime.

Existing law requires the Director of Consumer Affairs to validate the registration and send proof of validation to the service dealer. Under existing law, the director may refuse to validate, or may temporarily or permanently invalidate the registration of a service dealer for specified acts or omissions done by the service dealer or associated person.

This bill would instead require the director to issue the registration and send proof of issuance to the service dealer. The bill would instead authorize the director to deny, suspend, revoke, or place on probation the registration of a service dealer for specified acts or omissions done by the service dealer or associated person and would also add to that list of specified acts or omissions.

(7) Existing law, the Automotive Repair Act, provides for the licensure and regulation of automotive repair dealers. Under existing law, there is a Bureau of Automotive Repair, which is under the supervision of the Director of Consumer Affairs. Existing law authorizes the director and the Chief of the Bureau of Automotive Repair to bring disciplinary actions against an automotive repair dealer.

This bill would provide that all accusations against an automotive repair dealer shall be filed within 3 years after the act or omission alleged as the ground for disciplinary action, except that an accusation alleging fraud or misrepresentation may be filed within 2 years after the bureau's discovery of the fraud or misrepresentation, as specified.

(8) Under existing law, the Home Furnishings and Thermal Insulation Act, there is the Bureau of Home Furnishings and Thermal Insulation which is responsible for the licensure and regulation of, among others, upholstered furniture retailers, bedding retailers, and upholstered furniture and bedding wholesalers. A violation of the act is a crime.

Under existing law, a license that is not renewed within one year of expiration is canceled; however, the holder of a license may apply to have his or her license restored, reinstated, or reissued if specified requirements are met.

This bill would delete that provision authorizing the holder of a license to have his or her license restored, reinstated, or reissued. The bill would specify that to renew an expired license within 6 years after expiration, the licensee shall apply on a form prescribed by the bureau and pay all accrued renewal, delinquent, and penalty fees. The bill would specify that a license that is not renewed within 6 years of its expiration shall not be renewed, restored, reinstated, or reissued. The bill would authorize the holder of this type of a license to apply for and obtain a new license if certain requirements are satisfied and the bill would authorize the bureau to impose conditions on these licenses.

Existing law requires secondhand, as defined, bedding to be sanitized before it is sold.

This bill would extend that requirement to used, as defined, bedding. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 101.7 is added to the Business and Professions Code, to read:

101.7. (a) Notwithstanding any other provision of law, boards shall meet at least three times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

SEC. 2. Section 6501 of the Business and Professions Code is amended to read:

6501. As used in this chapter, the following terms have the following meanings:

(a) “Act” means this chapter.

(b) “Bureau” means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to Section 6510.

(c) “Client” means an individual who is served by a professional fiduciary.

(d) “Department” means the Department of Consumer Affairs.

(e) “Licensee” means a person who is licensed under this chapter as a professional fiduciary.

(f) “Professional fiduciary” means a person who acts as a conservator or guardian for two or more persons at the same time who are not related to the professional fiduciary or to each other by blood, adoption, marriage, or registered domestic partnership. “Professional fiduciary” also means a person who acts as a trustee, agent under a durable power of attorney for health care, or agent under a durable power of attorney for finances, for more than three people or more than three families, or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership. “Professional fiduciary” does not include any of the following:

(1) A trust company, as defined in Section 83 of the Probate Code.

(2) An FDIC-insured institution, or its holding companies, subsidiaries, or affiliates. For the purposes of this paragraph, “affiliate” means any entity that shares an ownership interest with, or that is under the common control of, the FDIC-insured institution.

(3) A person employed by an entity described in paragraph (1) or (2) who is acting in the course and scope of that employment.

(4) Any public officer or public agency, including the public guardian, public conservator, or other agency of the State of California or of a county of California, when that public officer or public agency is acting in the course and scope of official duties, or any regional center for persons with developmental disabilities as defined in Section 4620 of the Welfare and Institutions Code.

(5) Any person whose sole activity as a professional fiduciary is as a broker-dealer, broker-dealer agent, investment adviser, or investment adviser representative registered and regulated under the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), the Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78a et seq.), or involves serving as a trustee to a company regulated by the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(g) “Committee” means the Professional Fiduciaries Advisory Committee, as established pursuant to Section 6511.

SEC. 3. Section 6520 of the Business and Professions Code is amended to read:

6520. The bureau shall adopt, by regulation, a Professional Fiduciaries Code of Ethics. The Professional Fiduciaries Code of Ethics shall be consistent with all statutory requirements, as well as requirements developed by the courts and the Judicial Council. The Professional Fiduciaries Code of Ethics shall be provided electronically on the bureau’s Internet Web site and to persons who request an application for licensure. The bureau may, by regulation, amend the Professional Fiduciaries Code of Ethics from time to time, as it deems necessary, provided that no amendment shall be effective with regard to a licensee until the licensee’s next annual license renewal cycle, as specified in subdivision (a) of

Section 6541, is completed. Any amendment to the Professional Fiduciaries Code of Ethics shall be included in the license renewal materials sent to a licensee.

SEC. 4. Section 6530 of the Business and Professions Code is amended to read:

6530. (a) On and after January 1, 2009, no person shall act or hold himself or herself out to the public as a professional fiduciary unless that person is licensed as a professional fiduciary in accordance with the provisions of this chapter.

(b) This section does not apply to a person licensed as an attorney under the State Bar Act (Chapter 4 (commencing with Section 6000)).

(c) This section does not apply to a person licensed as, and acting within the scope of practice of, a certified public accountant pursuant to Chapter 1 (commencing with Section 5000) of Division 3.

(d) This section does not apply to a person enrolled as an agent to practice before the Internal Revenue Service who is acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations.

SEC. 5. Section 6533 of the Business and Professions Code is amended to read:

6533. In order to meet the qualifications for licensure as a professional fiduciary a person shall meet all of the following requirements:

(a) Be at least 21 years of age.

(b) Be a United States citizen, or be legally admitted to the United States.

(c) Have not committed any acts that are grounds for denial of a license under Section 480 or 6536.

(d) Submit fingerprint images as specified in Section 6533.5 in order to obtain criminal offender record information.

(e) Have completed the required prelicensing education described in Section 6538.

(f) Have passed the licensing examination administered by the bureau pursuant to Section 6539.

(g) Have at least one of the following:

(1) A baccalaureate degree of arts or sciences from a college or university accredited by a nationally recognized accrediting body of colleges and universities or a higher level of education.

(2) An associate of arts or sciences degree from a college or university accredited by a nationally recognized accrediting body of colleges and universities, and at least three years of experience working as a professional fiduciary or working with substantive fiduciary responsibilities for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

(3) Experience of not less than five years, prior to July 1, 2012, working as a professional fiduciary or working with substantive fiduciary responsibilities for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

(h) Agree to adhere to the Professional Fiduciaries Code of Ethics and to all statutes and regulations.

(i) Consent to the bureau conducting a credit check on the applicant.

(j) File a completed application for licensure with the bureau on a form provided by the bureau and signed by the applicant under penalty of perjury.

(k) Submit with the license application a nonrefundable application fee, as specified in this chapter.

SEC. 6. Section 6534 of the Business and Professions Code is amended to read:

6534. (a) The bureau shall maintain the following information in each licensee's file, shall make this information available to a court for any purpose, including the determination of the appropriateness of appointing or continuing the appointment of, or removing, the licensee as a conservator, guardian, trustee, or personal representative, and shall otherwise keep this information confidential, except as provided in subdivisions (b) and (c) of this section:

(1) The names of the licensee's current conservatees or wards and the trusts or estates currently administered by the licensee.

(2) The aggregate dollar value of all assets currently under the licensee's supervision as a professional fiduciary.

(3) The licensee's current addresses and telephone numbers for his or her place of business and place of residence.

(4) Whether the licensee has ever been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or the

licensee has demonstrated a pattern of negligent conduct, including a removal prior to becoming licensed, and all appeals have been taken, or the time to file an appeal has expired.

(5) The case names, court locations, and case numbers of all conservatorship, guardianship, or trust or other estate administration cases that are closed for which the licensee served as the conservator, guardian, trustee, or personal representative.

(6) Information regarding any discipline imposed upon the licensee by the bureau.

(7) Whether the licensee has filed for bankruptcy or held a controlling financial interest in a business that filed for bankruptcy in the last 10 years.

(b) The bureau shall make the information in paragraphs (2), (4), (6), and (7) of subdivision (a) available to the public.

(c) The bureau shall also publish information regarding licensees on the Internet as specified in Section 27. The information shall include, but shall not be limited to, information regarding license status and the information specified under subdivision (b).

SEC. 7. Section 6536 of the Business and Professions Code is amended to read:

6536. The bureau shall review all applications for licensure and may investigate an applicant's qualifications for licensure. The bureau shall approve those applications that meet the requirements for licensure, but shall not issue a license to any applicant who meets any of the following criteria:

(a) Does not meet the qualifications for licensure under this chapter.

(b) Has been convicted of a crime substantially related to the qualifications, functions, or duties of a professional fiduciary.

(c) Has engaged in fraud or deceit in applying for a license under this chapter.

(d) Has engaged in dishonesty, fraud, or gross negligence in performing the functions or duties of a professional fiduciary, including engaging in such conduct prior to January 1, 2009.

(e) Has been removed as a professional fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or has demonstrated a pattern of negligent conduct, including a removal prior to January 1, 2009, and all appeals have been taken, or the time to file an appeal has expired.

SEC. 8. Section 6561 of the Business and Professions Code is amended to read:

6561. (a) A licensee shall initially, and annually thereafter, file with the bureau a statement under penalty of perjury containing the following:

(1) Her or his business address, telephone number, and facsimile number.

(2) Whether or not he or she has been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or he or she has demonstrated a pattern of negligent conduct, including a removal prior to becoming licensed, and all appeals have been taken, or the time to file an appeal has expired. The licensee may file an additional statement of the issues and facts pertaining to the case.

(3) The case names, court locations, and case numbers for all matters where the licensee has been appointed by the court.

(4) Whether he or she has been found by a court to have breached a fiduciary duty.

(5) Whether he or she has resigned or settled a matter in which a complaint has been filed, along with the case number and a statement of the issues and facts pertaining to the allegations.

(6) Any licenses or professional certificates held by the licensee.

(7) Any ownership or beneficial interests in any businesses or other enterprises held by the licensee or by a family member that receives or has received payments from a client of the licensee.

(8) Whether the licensee has filed for bankruptcy or held a controlling financial interest in a business that filed for bankruptcy in the last ten years.

(9) The name of any persons or entities that have an interest in the licensee's professional fiduciary business.

(10) Whether the licensee has been convicted of a crime.

(b) The statement by the licensee required by this section may be filed electronically with the bureau, in a form approved by the bureau. However, any additional statement filed under paragraph (2) of subdivision (a) shall be filed in writing.

SEC. 9. Section 6712 of the Business and Professions Code is amended to read:

6712. (a) All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the

unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 30 of the fourth year following the year in which the previous term expired.

(b) Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

(c) The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering. One of the professional members licensed under this chapter or under Chapter 15 (commencing with Section 8700) shall be from a local public agency, and one shall be from a state agency.

(d) The Governor shall appoint five of the public members and the professional members qualified as provided in Section 6711. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 10. Section 6738 of the Business and Professions Code is amended to read:

6738. (a) This chapter does not prohibit one or more civil, electrical, or mechanical engineers from practicing or offering to practice within the scope of their license civil (including geotechnical and structural), electrical, or mechanical engineering as a sole proprietorship, partnership, firm, or corporation (hereinafter called business), if all of the following requirements are met:

(1) A civil, electrical, or mechanical engineer currently licensed in this state is an owner, partner, or officer in charge of the engineering practice of the business.

(2) All civil, electrical, or mechanical engineering services are performed by, or under the responsible charge of, a professional engineer licensed in the appropriate branch of professional engineering.

(3) If the business name of a California engineering business contains the name of any person, then that person shall be licensed as a professional engineer, a licensed land surveyor, a licensed architect, or a geologist registered under the Geologist Act (Chapter

12.5 (commencing with Section 7800)). Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of an individual in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(b) An out-of-state business with a branch office in this state shall meet the requirements of subdivision (a) and shall have an owner, partner, or officer who is in charge of the engineering work in the branch in this state, who is licensed in this state, and who is physically present at the branch office in this state on a regular basis. However, the name of the business may contain the name of any person not licensed in this state if that person is appropriately registered or licensed in another state. Any offer, promotion, or advertisement which contains the name of any individual in the business, other than by use of the names of the individuals in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

(c) The business name of a California engineering business may be a fictitious name. However, if the fictitious name includes the name of any person, the requirements of paragraph (3) of subdivision (a) shall be met.

(d) A person not licensed under this chapter may also be a partner or an officer of a civil, electrical, or mechanical engineering business if the requirements of subdivision (a) are met. Nothing in this section shall be construed to permit a person who is not licensed under this chapter to be the sole owner of a civil, electrical, or mechanical engineering business, unless otherwise exempt under this chapter.

(e) This chapter does not prevent an individual or business engaged in any line of endeavor other than the practice of civil, electrical, or mechanical engineering from employing or contracting with a licensed civil, electrical, or mechanical engineer to perform the respective engineering services incidental to the conduct of business.

(f) This section shall not prevent the use of the name of any business engaged in rendering civil, electrical, or mechanical engineering services, including the use by any lawful successor or survivor, that lawfully was in existence on December 31, 1987.

However, the business is subject to paragraphs (1) and (2) of subdivision (a).

(g) A business engaged in rendering civil, electrical, or mechanical engineering services may use in its name the name of a deceased or retired person provided all of the following conditions are satisfied:

(1) The person's name had been used in the name of the business, or a predecessor in interest of the business, prior to and after the death or retirement of the person.

(2) The person shall have been an owner, partner, or officer of the business, or an owner, partner, or officer of the predecessor in interest of the business.

(3) The person shall have been licensed as a professional engineer, or a land surveyor, or an architect, or a geologist, (A) by the appropriate licensing board if that person is operating a place of business or practice in this state, or (B) by the applicable state board if no place of business existed in this state.

(4) The person, if retired, has consented to the use of the name and does not permit the use of the name in the title of another professional engineering business in this state during the period of the consent. However, the retired person may use his or her name as the name of a new or purchased business if it is not identical in every respect to that person's name as used in the former business.

(5) The business shall be subject to the provisions of paragraphs (1) and (2) of subdivision (a).

(h) This section does not affect the provisions of Sections 6731.2 and 8726.1.

(i) A current organization record form shall be filed with the board for all businesses engaged in rendering civil, electrical, or mechanical engineering services.

SEC. 11. Section 6770 of the Business and Professions Code is amended to read:

6770. (a) A licensee shall report to the board in writing the occurrence of any of the following events that occurred on or after January 1, 2008, within 90 days of the date the licensee has knowledge of the event:

(1) The conviction of the licensee of any felony.

(2) The conviction of the licensee of any other crime that is substantially related to the qualifications, functions, and duties of a licensed professional engineer.

(3) Any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of professional engineering if the amount or value of the judgment, settlement, or arbitration award is fifty thousand dollars (\$50,000) or greater.

(b) The report required by subdivision (a) shall be signed by the licensee and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall set forth the title of the matter, court or agency name, docket number, and the date the reportable event occurred.

(c) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(d) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a) either by or against any other licensee.

(e) Failure of a licensee to report to the board in the time and manner required by this section shall be grounds for disciplinary action.

(f) For the purposes of this section, a conviction includes the initial plea, verdict, or finding of guilt; a plea of no contest; or pronouncement of sentence by a trial court even though the conviction may not be final or sentence actually imposed until all appeals are exhausted.

SEC. 12. Section 6770.6 of the Business and Professions Code is amended to read:

6770.6. This article shall become operative on January 1, 2008, only if an appropriation is made from the Professional Engineer's and Land Surveyor's Fund for the 2007–08 fiscal year in the annual Budget Act to fund the activities of this article, and sufficient hiring authority is granted to the board pursuant to a budget change proposal to provide sufficient staffing to implement this article.

SEC. 13. Section 6775.1 of the Business and Professions Code is amended to read:

6775.1. The board may receive and investigate complaints against engineers-in-training and make findings thereon.

By a majority vote, the board may revoke the certificate of any engineer-in-training:

(a) Who has been convicted of a crime as defined in subdivision (a) of Section 480.

(b) Who has committed any act that would be grounds for denial of licensure pursuant to Section 480 or 496.

(c) Who has been found guilty of any fraud, deceit, or misrepresentation in obtaining his or her engineer-in-training certificate or certificate of registration, certification, or authority as a professional engineer.

(d) Who aids or abets any person in the violation of any provision of this chapter.

(e) Who violates Section 119 with respect to an engineer-in-training certificate.

(f) Who commits any act described in Section 6787.

(g) Who violates any provision of this chapter.

SEC. 14. Section 6799 of the Business and Professions Code is amended to read:

6799. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a professional engineer and each application for authority level designation at not more than four hundred dollars (\$400), and for each application for certification as an engineer-in-training at not more than one hundred dollars (\$100).

(b) The temporary authorization fee for a professional engineer at not more than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for each branch of professional engineering in which licensure is held, and the renewal fee for each authority level designation held, at no more than the professional engineer application fee currently in effect.

(d) The fee for a retired license at not more than 50 percent of the professional engineer application fee in effect on the date of application.

(e) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(f) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee charged shall be no more than the costs incurred by the board.

(g) All other document fees are to be set by the board by rule.

Applicants wishing to be examined in more than one branch of engineering shall be required to pay the additional fee for each examination after the first.

SEC. 15. Section 7058 of the Business and Professions Code is amended to read:

7058. (a) A specialty contractor is a contractor whose operations involve the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

(b) A specialty contractor includes a contractor whose operations include the business of servicing or testing fire extinguishing systems.

(c) A specialty contractor includes a contractor whose operations are concerned with the installation and laying of carpets, linoleum, and resilient floor covering.

(d) A specialty contractor includes a contractor whose operations are concerned with preparing or removing roadway construction zones, lane closures, flagging, or traffic diversions on roadways, including, but not limited to, public streets, highways, or any public conveyance.

SEC. 16. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond in the sum of twelve thousand five hundred dollars (\$12,500).

(b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five

hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.

(c) No bond shall be required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) Notwithstanding any other provision of law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the amount required pursuant to subdivision (a) until the time that the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

SEC. 17. Section 7071.9 of the Business and Professions Code is amended to read:

7071.9. (a) If the qualifying individual, as referred to in Sections 7068 and 7068.1, is neither the proprietor, a general partner, nor a joint licensee, he or she shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of twelve thousand five hundred dollars (\$12,500). This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(b) Excluding the claims brought by the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10, the aggregate liability of a surety on claims brought against the bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10. However,

nothing in this section shall be construed to prevent any beneficiary specified in paragraph (1) of subdivision (a) of Section 7071.10 from claiming or recovering the full measure of the bond required by this section. This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(c) The responsible managing officer of a corporation shall not be required to file or have on file a qualifying individual's bond, if he or she owns 10 percent or more of the voting stock of the corporation and certifies to that fact on a form prescribed by the registrar.

SEC. 18. Section 8505.2 of the Business and Professions Code is amended to read:

8505.2. Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in a branch of pest control that includes fumigation.

SEC. 19. Section 8505.3 of the Business and Professions Code is amended to read:

8505.3. "Direct and personal supervision" as used in Section 8505.2 means that the Branch 1 licensee exercising that supervision shall be present at the site of the fumigation during the entire time the fumigants are being released, the time ventilation is commenced, and at the time property is released for occupancy.

SEC. 20. Section 8505.4 of the Business and Professions Code is amended to read:

8505.4. Fumigation shall be performed in compliance with all applicable state, county, and city laws and ordinances and all applicable laws and regulations of the United States.

SEC. 21. Section 8505.15 of the Business and Professions Code is repealed.

SEC. 22. Section 8506.1 of the Business and Professions Code is amended to read:

8506.1. A "registered company" is any sole proprietorship, partnership, corporation, or other organization or any combination thereof that is registered with the Structural Pest Control Board to engage in the practice of structural pest control.

A registered company may secure structural pest control work, submit bids, or otherwise contract for pest control work. A

registered company may employ licensed field representatives and licensed operators to identify infestations or infections, make inspections, and represent the company in the securing of pest control work. A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts covering wood-destroying organisms only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

A registered company may hire and use individuals who are not licensed under this chapter on service contracts already established.

SEC. 23. Section 8507 of the Business and Professions Code is amended to read:

8507. (a) “Structural pest control field representative” is any individual who is licensed by the board to secure structural pest control work, identify infestations or infections, make inspections, apply pesticides, submit bids for or otherwise contract, on behalf of a registered company.

A pest control field representative shall not contract for pest control work or perform pest control work on his or her own behalf.

(b) As used in this chapter, “field representative” refers to “structural pest control field representative.”

SEC. 24. Section 8509 of the Business and Professions Code is amended to read:

8509. “Branch office” is any fixed place of business in addition to the location of the principal office for which the company registration is issued, where records are kept, mail received, statements rendered, money is collected, or requests are received for service or bids, or information is given pertaining to the practice of pest control, other than governmental offices.

SEC. 25. Section 8510 of the Business and Professions Code is amended to read:

8510. For purposes of this chapter, “wood preservative” means any coating formulated to protect wood surfaces from deterioration caused by insects, fungus, rot, and decay and which contains a wood preservative chemical that is registered with the Department of Pesticide Regulation and the United States Environmental Protection Agency.

SEC. 26. Section 8512 of the Business and Professions Code is amended to read:

8512. “Employer” refers to a registered company that employs operators, field representatives, applicators, and other individuals, the latter not being required to be licensed under this chapter, who work on pest control jobs under the supervision of an operator or field representative.

SEC. 27. Section 8525 of the Business and Professions Code is amended to read:

8525. The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

The board shall also consult with the Department of Pesticide Regulation when developing or adopting regulations that may affect the Department of Pesticide Regulation or the county agricultural commissioner’s responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

SEC. 28. Section 8551.5 of the Business and Professions Code is amended to read:

8551.5. No unlicensed individual in the employ of a registered company shall apply any pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests, or organisms included in Branch 2 or Branch 3. However, an individual may, for 30 days from the date of employment, apply pesticides, rodenticides, or allied chemicals or substances for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 30-day time period may not be extended.

SEC. 29. Section 8565.5 of the Business and Professions Code is amended to read:

8565.5. (a) An applicant for a Branch 1 operator’s license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

- (1) Pesticides.

- (2) Pest identification and biology.
- (3) Contract law.
- (4) Rules and regulations.
- (5) Business practices.
- (6) Fumigation safety.

(b) An applicant for a Branch 2 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

- (1) Pesticides.
- (2) Pest identification and biology.
- (3) Contract law.
- (4) Rules and regulations.
- (5) Business practices.

(c) An applicant for a Branch 3 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

- (1) Pesticides.
- (2) Pest identification and biology.
- (3) Contract law.
- (4) Rules and regulations.
- (5) Business practices.
- (6) Construction repair and preservation techniques.

SEC. 30. Section 8591 of the Business and Professions Code is amended to read:

8591. If delinquency in the payment of the fee for renewal of any license extends beyond three months, the license shall not be reinstated and the licensee shall be required to obtain a new license in accordance with the provisions of Article 4 (commencing with Section 8560).

SEC. 31. Section 8592 of the Business and Professions Code is amended to read:

8592. Any licensee whose license is under suspension may make application for renewal of his or her license as provided in this article, but the board may not renew his or her license until the suspension has been lifted.

SEC. 32. Section 8610 of the Business and Professions Code is amended to read:

8610. (a) Every company that engages in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other organization or any combination thereof,

shall be registered with the Structural Pest Control Board. Each application for a company registration shall include the name of the company's owner if it is a sole proprietorship, the names of the partners, if it is a partnership, or the names of its officers and shareholders with 10 percent or more ownership interest, if it is a corporation, and the address of the company's principal office in this state.

(b) (1) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, whose license or registration is revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(2) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, who owns or has owned in the past more than a 10 percent interest in another sole proprietorship, partnership, corporation, or other organization that has its license or registration revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(c) Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish.

(d) No individual who holds an operator's license shall act as a qualifying manager for more than two registered companies.

(1) Any individual, who on January 1, 2008, is acting as the qualifying manager for more than two registered companies shall comply with this subdivision by January 1, 2010.

(2) Commencing January 1, 2010, failure to comply with this subdivision shall result in the disassociation of the qualifying manager and the automatic suspension of the company's registration.

(3) This subdivision shall not apply to a company engaging in the practice of structural pest control as a corporation and which has an additional company or companies operating under that corporation and doing business in a name other than the corporation name.

SEC. 33. Section 8611 of the Business and Professions Code is amended to read:

8611. Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative and his or her license shall be prominently displayed in the branch office.

If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

SEC. 34. Section 8612 of the Business and Professions Code is amended to read:

8612. The licenses of qualifying managers and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.

When a registered company opens a branch office it shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

SEC. 35. Section 8617 of the Business and Professions Code is amended to read:

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars (\$1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed the administrative fine, or both, for each violation of this chapter or Chapter 14.5 (commencing with Section 8698), or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. However, any violation determined by the board or the commissioner to be a serious violation as defined in Section 1922 of Title 16 of the California Code of Regulations shall be subject to a fine of not more than five thousand dollars (\$5,000) for each violation. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

(b) A licensee who passes a course pursuant to this section shall not be awarded continuing education credit for that course.

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action.

A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address.

If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and a right to present evidence on his or her own behalf. If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.

(d) If the person upon whom the commissioner imposed a fine or suspension or required attendance at a board-approved course of instruction requested and appeared at a hearing before the commissioner, the person may appeal the commissioner's decision to the Disciplinary Review Committee and shall be subject to the procedures in Section 8662.

(e) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the commissioner's decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the commissioner's order shall be stayed until 30 days after the Disciplinary Review Committee has ruled on the appeal.

(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

Where a citation containing a fine is issued to a licensee and it is not contested or the time to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of that license. A license shall not be renewed without payment of the renewal fee and fine.

Where a citation containing a fine is issued to a registered company and it is not contested or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid.

Where a citation containing the requirement that a licensee attend and pass a board-approved course of instruction is not contested or the time to appeal the citation has expired and the licensee has not attended and passed the required board-approved course of

instruction, the licensee's license shall not be renewed without proof of attendance and passage of the required board-approved course of instruction.

(g) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

(h) Where the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a), "commissioner" as used in subdivisions (c), (d), and (e) includes the board's registrar.

SEC. 36. Section 8712 of the Business and Professions Code is repealed.

SEC. 37. Section 8712 is added to the Business and Professions Code, to read:

8712. The board shall compile and maintain, or may have compiled and maintained on its behalf, a register of all licensed land surveyors that includes the following information for each licensee:

- (a) Name.
- (b) Address of record.
- (c) Type of branch license.
- (d) License number.
- (e) The date the license was issued.
- (f) The date the license will expire.

SEC. 38. Section 8776 of the Business and Professions Code is amended to read:

8776. (a) A licensee shall report to the board in writing the occurrence of any of the following events that occurred on or after January 1, 2008, within 90 days of the date the licensee has knowledge of the event:

- (1) The conviction of the licensee of any felony.
- (2) The conviction of the licensee of any other crime that is substantially related to the qualifications, functions, and duties of a licensed land surveyor.

(3) Any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of land surveying if the amount or value of the judgment, settlement, or arbitration award is fifty thousand dollars (\$50,000) or greater.

(b) The report required by subdivision (a) shall be signed by the licensee and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall set forth the title of the matter, court or agency name, docket number, and the dates the reportable event occurred.

(c) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(d) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a) either by or against any other licensee.

(e) Failure of a licensee to report to the board in the time and manner required by this section shall be grounds for disciplinary action.

(f) For purposes of this section, a conviction includes the initial plea, verdict, or finding of guilt; a plea of no contest; or pronouncement of sentence by a trial court even though the conviction may not be final or sentence actually imposed until all appeals are exhausted.

SEC. 39. Section 8776.7 of the Business and Professions Code is amended to read:

8776.7. This article shall become operative on January 1, 2008, only if an appropriation is made from the Professional Engineer's and Land Surveyor's Fund for the 2007–08 fiscal year in the annual Budget Act to fund the activities of this article, and sufficient hiring authority is granted to the board pursuant to a budget change proposal to provide sufficient staffing to implement this article.

SEC. 40. Section 8780.1 of the Business and Professions Code is amended to read:

8780.1. The board may receive and investigate complaints against land surveyors-in-training and make findings thereon.

By a majority vote, the board may revoke the certificate of any land surveyor-in-training:

(a) Who has been convicted of a crime as defined in subdivision (a) of Section 480.

(b) Who has committed any act that would be grounds for denial of a license pursuant to Section 480 or 496.

(c) Who has been found guilty of any fraud, deceit, or misrepresentation in obtaining his or her land surveyor-in-training certificate or license as a professional land surveyor.

(d) Who aids or abets any person in the violation of any provision of this chapter.

(e) Who violates Section 119 with respect to a land surveyor-in-training certificate.

(f) Who commits any act described in Section 8792.

(g) Who violates any provision of this chapter.

SEC. 41. Section 8805 of the Business and Professions Code is amended to read:

8805. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a land surveyor at not more than four hundred dollars (\$400), and for each application for certification as a land surveyor-in-training (LSIT) at not more than one hundred dollars (\$100).

(b) The renewal fee for a land surveyor at not more than the application fee.

(c) The fee for a retired license at not more than 50 percent of the professional land surveyor application fee in effect on the date of application.

(d) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(e) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee shall be no more than the costs incurred by the board.

(f) All other document fees are to be set by the board by rule.

SEC. 42. Section 9812.5 of the Business and Professions Code is amended to read:

9812.5. The director shall gather evidence of violations of this chapter and of any regulation established hereunder by any service

contractor, whether registered or not, and by any employee, partner, officer, or member of any service contractor. The director shall, on his or her own initiative, conduct spot check investigations of service contractors throughout the state on a continuous basis. This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 43. Section 9830.5 of the Business and Professions Code is amended to read:

9830.5. Each service contractor shall pay the fee required by this chapter for each place of business operated by him or her in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service contractor, including name, address, retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), a copy of the certificate of qualification as filed with the Secretary of State if the service contractor is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service contractor is a partnership, identifying data shall be stated for each partner. If the service contractor is a private company that does not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service contractor's business in the State of California, subject to any regulations the director may adopt. If the service contractor is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient for purposes of providing data for each of the officers and directors of the corporation or company to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

A service contractor who does not operate a place of business in this state but who sells, issues, or administers service contracts in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 44. Section 9831 of the Business and Professions Code is amended to read:

9831. Upon receipt of the form properly filled out and receipt of the required fee, the director shall, provided the applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480, issue the registration and send a proof of issuance to the service dealer. The director shall by regulation prescribe conditions upon which a person whose registration has previously been revoked or has previously been denied, may have his or her registration issued.

SEC. 45. Section 9832.5 of the Business and Professions Code is amended to read:

9832.5. (a) Registrations issued under this chapter shall expire no more than 12 months after the issue date. The expiration date of registrations shall be set by the director in a manner to best distribute renewal procedures throughout the year.

(b) To renew an unexpired registration, the service contractor shall, on or before the expiration date of the registration, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter.

(c) To renew an expired registration, the service contractor shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and pay all accrued and unpaid delinquency and renewal fees.

(d) Renewal is effective on the date that the application is filed, the renewal fee is paid, and all delinquency fees are paid.

(e) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend, by not more than six months, the date fixed by law for renewal of a registration, except that, in that event, any renewal fee that may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

(f) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 46. Section 9841 of the Business and Professions Code is amended to read:

9841. (a) The director may deny, suspend, revoke, or place on probation the registration of a service dealer for any of the following acts or omissions done by himself or herself or any employee, partner, officer, or member of the service dealer and related to the conduct of his or her business:

(1) Making or authorizing any statement or advertisement that is untrue or misleading, and that is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, installation, service, or maintenance of the equipment as specified by this chapter.

(3) Any other conduct that constitutes fraud or dishonest dealing.

(4) Conduct constituting incompetence or negligence.

(5) Failure to comply with the provisions of this chapter or any regulation, rule, or standard established pursuant to this chapter.

(6) Any willful departure from or disregard of accepted trade standards for good and workmanlike installation or repair.

(7) Conviction of a crime that has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

(8) A violation of any order of the bureau made pursuant to this chapter.

(b) The director may also deny, or may suspend, revoke, or place on probation, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The director may also deny, or may suspend, revoke, or place on probation, the registration of a service dealer if the applicant or registrant, as the case may be, will be or is holding the registration for the benefit of a former registrant whose registration has been suspended or revoked and who will continue to have some involvement in the applicant's or new registrant's business.

SEC. 47. Section 9847.5 of the Business and Professions Code is amended to read:

9847.5. Each service contractor shall maintain those records as are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 48. Section 9848 of the Business and Professions Code is amended to read:

9848. All proceedings to deny registration or suspend, revoke, or place on probation a registration shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 49. Section 9849 of the Business and Professions Code, as amended by Section 23 of Chapter 405 of the Statutes of 2002, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or service contractor or to render a decision to suspend, revoke, or place on probation a registration.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 50. Section 9849 of the Business and Professions Code, as amended by Section 22 of Chapter 405 of the Statutes of 2002, is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or to render a decision to suspend, revoke, or place on probation a registration.

This section shall become operative on January 1, 2013.

SEC. 51. Section 9851 of the Business and Professions Code, as amended by Section 25 of Chapter 405 of the Statutes of 2002, is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer or service contractor in violation of the provisions of this

chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining that conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 52. Section 9851 of the Business and Professions Code, as amended by Section 24 of Chapter 405 of the Statutes of 2002, is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining that conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section shall become operative on January 1, 2013.

SEC. 53. Section 9853 of the Business and Professions Code, as amended by Section 27 of Chapter 405 of the Statutes of 2002, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer or service contractor is deemed to be a conviction within the meaning of this article. The director may suspend, revoke, or place on probation a registration, or may deny registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code, allowing that person to withdraw his or her plea of guilty and to enter a plea of not

guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 54. Section 9853 of the Business and Professions Code, as amended by Section 26 of Chapter 405 of the Statutes of 2002, is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer is deemed to be a conviction within the meaning of this article. The director may suspend, revoke, or place on probation a registration, or may deny registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

This section shall become operative on January 1, 2013.

SEC. 55. Section 9855.7 of the Business and Professions Code is amended to read:

9855.7. The director may deny, or may suspend, revoke, or place on probation the registration of a service contractor for any act, omission, or crime that is committed by the service contractor or any employee, partner, officer, or agent of the service contractor for any of the following reasons:

- (a) Any conduct that constitutes fraud or dishonest dealing.
- (b) Conviction of a crime that has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of conviction shall be conclusive evidence thereof.
- (c) Assisting in or abetting the violation of, or conspiring to violate, any provision of this article, or of regulations adopted under this article.

SEC. 56. Section 9855.8 of the Business and Professions Code is amended to read:

9855.8. (a) The director may issue a citation to the service contractor for any of the following reasons:

(1) Violation of subdivision (a) of Section 9855.3 or Section 9855.5, or any regulation adopted thereunder.

(2) Upon a determination by the director that the service contractor has committed a violation by (A) making or authorizing statements or advertisements which are untrue or misleading; or (B) making false promises of a character likely to influence, persuade, or induce a customer to purchase a service contract as provided by this chapter.

(3) For purposes of this section, a violation consists of a single publication or single course of conduct that is determined by the director to be untrue or misleading.

(b) The citation may contain an order of abatement and an order to pay an administrative fine assessed by the director.

(1) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.

(2) Where appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) A citation or fine assessment issued pursuant to a citation shall inform the service contractor that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the bureau within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) (A) In addition to requesting a hearing as provided for herein, the service contractor may request a citation review conference with the director or his or her designee regarding the acts charged in the citation. A citation review conference shall be requested by written notice to the bureau within 20 days of the date of the issuance of the citation or assessment.

(B) The director or his or her designee shall hold a citation review conference within 60 days from the receipt of the request. At the conclusion of the citation review conference, the director or his or her designee shall state, in writing, the reasons for his or her action and transmit a copy of his or her findings and decision to the service contractor.

(5) The failure of a service contractor to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the director. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the registration. A registration shall not be renewed without payment of the renewal fee and fine.

(c) Where a citation includes an administrative fine, it shall be issued in accordance with the following procedures:

(1) For the first citation, the director may assess an administrative fine of not less than one hundred dollars (\$100) but not more than five hundred dollars (\$500).

(2) For the second citation issued during any one-year period, the director may assess an administrative fine of not less than five hundred dollars (\$500) but not more than one thousand dollars (\$1,000).

(3) For the third citation issued during any two-year period, the director may assess an administrative fine of not less than one thousand dollars (\$1,000) but not more than two thousand dollars (\$2,000).

(4) For the fourth violation of subdivision (a) of Section 9855.3 or of Section 9855.5, or any regulation adopted thereunder, during any two-year period, the director may either assess an administrative fine of not less than one thousand dollars (\$1,000) but not more than two thousand dollars (\$2,000) or suspend, revoke, or place on probation a registration of the service contractor.

SEC. 57. Section 9855.9 of the Business and Professions Code is amended to read:

9855.9. This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 58. Section 9860 of the Business and Professions Code, as amended by Section 30 of Chapter 405 of the Statutes of 2002, is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer or service contractor.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 59. Section 9860 of the Business and Professions Code, as amended by Section 29 of Chapter 405 of the Statutes of 2002, is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer.

This section shall become operative on January 1, 2013.

SEC. 60. Section 9862.5 of the Business and Professions Code is amended to read:

9862.5. If a complaint indicates a possible violation of this chapter or of the regulations adopted pursuant to this chapter, the director may advise the service contractor of the contents of the complaint and, if the service contractor is so advised, the director shall make a summary investigation of the facts after the service dealer has had reasonable opportunity to reply thereto.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 61. Section 9863 of the Business and Professions Code, as amended by Section 33 of Chapter 405 of the Statutes of 2002, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer or service contractor accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer or service contractor declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 62. Section 9863 of the Business and Professions Code, as amended by Section 32 of Chapter 405 of the Statutes of 2002, is amended to read:

9863. If, upon summary investigation, it appears probable to the director that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall become operative on January 1, 2013.

SEC. 63. Section 9873 of the Business and Professions Code, as amended by Section 35 of Chapter 405 of the Statutes of 2002, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state. The initial registration fee for a service contractor is not more than seventy-five dollars (\$75) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars (\$325) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than two hundred forty dollars (\$240) for each place of business in this state.

(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service dealer and is a service contractor is not more than four hundred dollars (\$400) for each place of business in this state.

(4) On or after January 1, 2000, the initial registration fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be set by the director in an amount not to exceed the actual and direct costs associated with the regulation of those service contractors, but in no event more than fifty thousand dollars (\$50,000).

A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is seventy-five dollars (\$75) for each place of business in this state, if renewed prior to its expiration date.

(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars (\$300) for each place of business in this state.

(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than three hundred seventy-five dollars (\$375) for each place of business in this state.

(4) It is the intent of the Legislature that the amount of the annual registration renewal fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be evaluated and set by the Legislature.

A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 64. Section 9873 of the Business and Professions Code, as amended by Section 34 of Chapter 405 of the Statutes of 2002, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars (\$325).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars (\$300).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall become operative on January 1, 2013.

SEC. 65. Section 9884.20 is added to the Business and Professions Code, to read:

9884.20. All accusations against automotive repair dealers shall be filed within three years after the performance of the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action, the accusation may be filed within two years after the discovery, by the bureau, of the alleged facts constituting the fraud or misrepresentation.

SEC. 66. Section 19008.1 of the Business and Professions Code is amended to read:

19008.1. “Used” means furniture or bedding that has been previously owned or used by another individual.

SEC. 67. Section 19129 of the Business and Professions Code is amended to read:

19129. Secondhand or used bedding and any secondhand or used article that can be used for sleeping purposes shall be sanitized under the provisions of this chapter before being sold.

SEC. 68. Section 19132 of the Business and Professions Code is amended to read:

19132. New or sanitized articles of bedding or materials shall at all times be kept separate from any secondhand or used articles or materials that are unsanitized.

SEC. 69. Section 19170.5 of the Business and Professions Code is amended to read:

19170.5. (a) Except as provided in Section 19170.3, licenses issued under this chapter expire two years from the date of issuance. To renew his or her license, a licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the chief, and pay the fees prescribed by Sections 19170 and 19213.1. If a licensee fails to renew his or her license before its expiration, a delinquency fee of 20 percent, but not more than one hundred dollars (\$100), notwithstanding the provisions of Section 163.5, shall be added to the renewal fee. If the renewal fee and delinquency fee are not paid within 90 days after expiration of a license, the licensee shall be assessed an additional penalty fee of 30 percent of the renewal fee.

(b) Except as otherwise provided in this chapter, a licensee may renew an expired license within six years after expiration of the license by filing an application for renewal on a form prescribed by the bureau, and paying all accrued renewal, delinquent, and penalty fees.

(c) A license that is not renewed within six years of its expiration shall not be renewed, restored, reinstated, or reissued, but the holder of the license may apply for and obtain a new license if both of the following requirements are satisfied:

(1) No fact, circumstance, or condition exists which would justify denial of licensure under Section 480.

(2) The licensee pays all renewal, delinquency, and penalty fees that have accrued since the date on which the license was last renewed.

(d) The bureau may impose conditions on any license issued pursuant to subdivision (c).

SEC. 70. Section 60.1 of the Probate Code is amended to read:

60.1. (a) “Professional fiduciary” means a person who is a professional fiduciary as defined under subdivision (f) of Section 6501 of the Business and Professions Code.

(b) On and after January 1, 2009, no person shall act or hold himself or herself out to the public as a professional fiduciary unless he or she is licensed as a professional fiduciary under Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

SEC. 71. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2007

Governor